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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/741,799	12/19/2003	Thomas E. Creamer	BOC920030113US1 (017)	5597
46322 7590 12/11/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487				
EXAMINER				
AL AUBAIDI, RASHA S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
12/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/741,799

Applicant(s)

CREAMER ET AL.

Examiner

RASHA S. AL AUBAIDI

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. In view of the Appeal Brief filed on 09/16/2008, PROSECUTION IS HEREBY REOPENED. New ground of rejection set forth below. Claims 33-60 are pending.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-13 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claim 8 recites “***machine readable storage having stored thereon a computer program for managing subscriber services***”. *The specification does not* support this limitation.

Dependent claims 9-13 are rejected for the same reasons addressed in independent claim 8.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-6 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. (Pub. No.: 2008/0294977).

Regarding claims 1 and 8, Friedman teaches in a web browser, a shopper can access web site vendor (i.e., eCommerce) to select and purchase a product and provide payment and delivery instructions [0005]. Shopper's identity can be retrieved from previous data regarding the user or the products that are stored in the system [0098 and 0077], thus there is no need for the shopper or the user of the eCommerce vendor to provide the information again. Also, Friedman teaches that the system can manage the delivery instruction by retrieving customer's data and information without the need to have the user provide these information [0077 and 0082].

Even though, the use of an IVR 285 is already taught in Friedman [see 0144-0145]. In addition certain embodiments [0112] teach that a user can be prompted to enter appropriate information.

However, Friedman does not specifically teach "prompt a customer through an established telephone call to manage delivery instruction".

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an IVR, as the one taught by Friedman, prompt a customer or user to enter or respond to any type of information desired (such as, instructions, contact information, other type of identifications). An IVR can be customized to present and guide the user to reply to different types of questions and information.

Regarding claims 2 and 9, the claimed feature of "change said delivery instructions" basically reads on the user making any changes to their order [0145 and 0238].

Regarding claims 3 and 10, Friedman teaches that that service application 214 can actually change the location without relying on customer's phone call information [0157 and 0238].

Claims 4 and 11 are rejected for the same reasons as discussed above with respect to claims 3 and 10.

For claims 5 and 12, Friedman teaches live communication between users and sales associates [0145].

For claims 6 and 13, Friedman teaches charging the user [see 0005 and Fig. 7 steps 746-750 for billing].

Claim Rejections - 35 USC § 102

Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Friedman et al. (Pub. No.: 2008/0294977).

Regarding claim 7, Friedman teaches in a web browser, a shopper can access web site vendor (i.e., eCommerce) to select and purchase a product and provide payment and delivery instructions [0005]. Shopper's identity can be retrieved from previous data regarding the user or the products that are stored in the system [0098 and 0077], thus there is no need to the shopper or the user of the eCommerce vendor to provide these information again. Also, Friedman teaches that the system can manage the delivery instruction by retrieving customer's data and information without the need to have the user provide these information [0077 and 0082]. The claimed "PSTN" as

recited in claim 7 is already taught in Friedman [see 0161 discussion]. Also, the claimed "logic" reads on the logic and software taught by Friedman as discussed in [0238].

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614

/Ahmad F Matar/

Supervisory Patent Examiner, Art Unit 2614